

GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

ENERGY DEPARTMENT – ANDHRA PRADESH - Constitution of ANDHRA
PRADESH ELECTRICITY REGULATORY COMMISSION – Notification – Issued.

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ENERGY (POWER III) DEPARTMENT

G.O.Ms.No.35

Dated: 01-08-2014

Read the following:-

1. The A.P. Reorganisation Act, 2014.
2. The Electricity Act, 2003

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In terms of the provisions of schedule XII (c) (3) in the Act first read above, and read with section 82 of the Electricity Act, a State Electricity Regulatory Commission shall be constituted for the State of Andhra Pradesh to be known as "Andhra Pradesh State Electricity Regulatory Commission".

2. Accordingly, the following Notification will be published in the Extra-ordinary issue of Andhra Pradesh Gazette, dt:01-08-2014.

NOTIFICATION

In exercise of the powers conferred under sub-section (1) of Section 82 of the Electricity Act, 2003, the Governor of ANDHRA PRADESH State hereby constitute a State Electricity Regulatory Commission for the State of ANDHRA PRADESH to be called as "ANDHRA PRADESH STATE ELECTRICITY REGULATORY COMMISSION" (APERC), with one Chairman and two Members.

2. Constitution, powers and functions of the APERC shall be regulated by the following provisions;

I. Qualifications for appointment of Chairperson and Members of State Commission:

(1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management.

(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.

(3) The Chairperson or any other Member of the State Commission shall not hold any other office.

(4) The Chairperson shall be the Chief Executive of the State Commission.

II. Constitution of Selection Committee to select Members of State Commission.

(1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of :-

- (a) a person who has been a Judge of the High Court.... Chairperson;
- (b) the Chief Secretary of the ANDHRA PRADESH State... .. Member;
- (c) the Chairperson of the Authority or the Chairperson of the Central Commission Member:

Contd..2.

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.

- (2) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member and six months before the superannuation or end of tenure of the Chairperson or Member, make a reference to the Selection Committee for filling up of the vacancy.
- (3) The Selection Committee shall finalise the selection of the Chairperson and Members within three months from the date on which the reference is made to it.
- (4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.
- (5) Before recommending any person for appointment as the Chairperson or other Member of the State Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as Chairperson or Member, as the case may be.
- (6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

III. Functions of State Commission

- (1) The State Commission shall discharge the following functions, namely:-

- (a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Providing that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

- (b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;
- (c) facilitate intra-state transmission and wheeling of electricity;
- (d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State;
- (e) promote congeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licence;
- (f) adjudicate upon the disputes between the licensees, and generating companies and to refer any dispute for arbitration;
- (g) levy fee for the purposes of this Act;
- (h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (1) of section 79;
- (i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;
- (j) fix the trading margin in the intra-State trading of electricity, if considered, necessary; and
- (k) discharge such other functions as may be assigned to it under this Act.

- (2) The State Commission shall advise the State Government on all or any of the following matters, namely :-
 - (i) promotion of competition, efficiency and economy in activities of the electricity industry;
 - (ii) promotion of investment in electricity industry;
 - (iii) reorganization and restructuring of electricity industry in the State;
 - (iv) matters concerning generation, transmission , distribution and trading of electricity or any other matter referred to the State Commission by that Government.
- (3) The State Commission shall ensure transparency while exercising its powers and discharging its functions.
- (4) In discharge of its functions the State Commission shall be guided by the National Electricity Policy, National Electricity Plan and tariff policy published under subsection (2) of section 3.

IV. State Advisory Committee

- (1) The State Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.
- (2) The State Advisory Committee shall consist of not more than twenty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the electricity sector.
- (3) The Chairperson of the State Commission shall be the ex-officio Chairperson of the State Advisory Committee and the Members of the State Commission and the Secretary to State Government in charge of the Department dealing with Power Agriculture and Industries shall be the ex-officio Members of the Committee.

V. Objects of State Advisory Committee

The objects of the State Advisory Committee shall be to advise the Commission on –

- (i) major questions of policy;
- (ii) matters relating to quality, continuity and extent of service provided by the licensees;
- (iii) compliance by licensees with the conditions and requirements of their licence;
- (iv) protection of consumer interest; and
- (v) electricity supply and overall standards of performance by utilities.

Appropriate Commission – Other Provisions

VI. Term of office and conditions of service of members

- (1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office;

Provided that the Chairperson or other Member in the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.

- (2) The salary, allowances and other terms and conditions of service of the Chairperson and Members shall be such as may be prescribed by the State Government.

Provided that the salary, allowances and other terms and conditions of service of the Members, shall not be varied to their disadvantage after appointment.

- (3) Every Member shall, before entering upon his office, make and subscribe to an oath of office and secrecy in such form and in such manner and before such authority as may be prescribed.
- (4) Notwithstanding anything contained in sub-section (1), a Member may-
 - (a) Relinquish his office by giving in writing to the State Government a notice of not less than three months; or
 - (b) be removed from his office in accordance with the provisions of section 90.
- (5) Any member ceasing to hold office as such shall –
 - (a) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and
 - (b) not represent any person before the State Commission in any manner.

Explanation. - For the purposes of this sub-section "commercial employment" means employment in any capacity in any organisation which has been a party to the proceedings before the State Commission or employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in electricity industry and includes a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an advisor or a consultant.

VII. Removal of member

- (1) No Member shall be removed from office except in accordance with the provisions of this section.
- (2) The State Government, may by order remove from office any Member, if he-
 - (a) has been adjudged an insolvent;
 - (b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude;
 - (c) has become physically or mentally incapable of acting as a Member;
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member;
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
 - (f) has been guilty of proved misbehaviour:

Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the State Government has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the State Government, reported that the Member ought on such ground or grounds to be removed.

- (3) The State Government may, in consultation with the Chairperson of the Appellate Tribunal suspend any Member of the State Commission in respect of whom a reference has been made to the Chairperson of the Appellate Tribunal, under sub-section (2) until the State Government, has passed orders on receipt of the report of the Chairperson of the Appellate Tribunal, on such reference :

Provided that nothing contained in this section shall apply to the Chairperson of the State Commission who, at the time of his appointment as such is a sitting Judge of the Supreme court or the chief Justice of a High Court or a Judge of a High Court.

Proceedings and powers of the State Commission

VIII Secretary, Officers and other employees of State Commission:

- (1) The State Commission may appoint a Secretary to exercise such powers and perform such duties as may be specified.
- (2) The State Commission may, with the approval of the State Government, specify the numbers, nature and categories of other officers and employees.
- (3) The salaries and allowances payable to, and other terms and conditions of service of, the Secretary, officers and other employees shall be such as may be specified with the approval of the State Government.
- (4) The State Commission may appoint consultants required to assist that Commission in the discharge of its functions on the terms and conditions as may be specified.

IX. Proceedings of the State Commission.

- (1) The State Commission shall meet at the head office or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.
- (2) The Chairperson, or if he is unable to attend a meeting of the State Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves, shall preside at the meeting.
- (3) All questions which come up before any meeting of the State Commission shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.
- (4) Save as otherwise provided in sub-section (3), every Member shall have one vote.
- (5) All orders and decisions of the State Commission shall be authenticated by its Secretary or any other officer of the Commission duly authorized by the Chairperson in this behalf.

X. Vacancies, etc., not to invalidate proceedings.

No act or proceedings of the State Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the State Commission.

XI. Powers of the State Commission .

- (1) The State Commission shall, for the purposes of any inquiry or proceedings under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely: -
 - (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) discovery and production of any document or other material object producible as evidence;
 - (c) receiving evidence on affidavits;
 - (d) requisitioning of any public record;
 - (e) issuing commission for the examination of witnesses;
 - (f) reviewing its decisions, directions and orders;
 - (g) any other matter which may be prescribed.

- (2) The State Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the State Commission, as that commission may consider appropriate.
- (3) The State Commission may authorize any person, as it deems fit, to represent the interest of the consumers in the proceedings before it.

XI. Proceedings before Commission:

All proceedings before the State Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the State Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

XII. Powers of entry and seizure:

The State Commission or any officer, not below the rank of a Gazetted Officer specially authorised in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies there from subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), insofar as it may be applicable.

XIII. Delegation:

The State Commission may, by general or special order in writing, delegate to any Member, Secretary officer of the State Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers to adjudicate disputes under Section 79 and Section 86 and the powers to make regulations under section 173 or section 176) as it may deem necessary

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJAY JAIN
Secretary to Government (FAC)

To

The Commissioner, Printing and Stationery, Hyderabad
(for publication of notification and supply 200 copies)

The Chairman, APERC, Hyderabad

The Chairman & Managing Director, APTRANSCO

The Chairman & Managing Director, APGENCO

The Chairman & Managing Director, APEPDCL, Visakhapatnam

The Chairman & Managing Director, APSPDCL, Tirupathi

Copy to:

The Secretary, APERC, Hyderabad

The Secretary, Ministry of Power, GoI, New Delhi

The Chairperson, Central Electricity Authority, New Delhi

The Chairperson, Central Electricity Regulatory Commission,
New Delhi

The P.S. to Chief Minister

The P.S. to Chief Secretary to Government

The P.S. to Principal Secretary to Government, Energy

Department The Law Department

C.No.1961/Pr.III/2014

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//Forwarded:: By Order//

SECTION OFFICER